

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA**

**CHARLES MORROW, et al,
Individually and on behalf of similarly
situated employees,**

Plaintiffs,

V.

FLOWERS FOODS, INC., et al,

Defendants.

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) **CIVIL ACTION NO.:**
) **3:07-CV-617-MHT**

**OBJECTIONS AND RESPONSES TO DEFENDANTS' NOTICE OF
PRODUCTION AND INSPECTION OF PROPERTY OF PLAINTIFF LEW
BAXTER**

COME NOW Plaintiffs in the above-styled action and hereby respond to the Notice of Production and Inspection of Property of Plaintiff Lew Baxter as follows:

Defendants' Notice of Production and Inspection of Property of Plaintiff Lew Baxter

Please take notice that pursuant to the Federal Rules of Civil Procedure 34(a), Defendants request that you produce the vehicle and trailer you currently use to service your distributorship with Flowers Baking Co. of Opelika, LLC, which upon Defendants' information and belief is listed blow, at a time and place mutually agreeable to both parties, to be inspected, loaded with product, and weighed by Defendants:

- (1) 2004 Ford F-250, purchased on or about May 2006, and
- (2) Eight by twenty trailer, purchased on or about May, 2006 from Port City Trailors in Mobile, Alabama

Objections

1. Plaintiffs object to this Notice of Production and Inspection of Property (“Notice”) as the information sought is properly the subject of expert testimony. Plaintiffs further object to this Notice as it is burdensome and duplicative or prior discovery propounded and Defendants can obtain information relevant to the issue

through other means. Plaintiffs have already responded to numerous document requests and interrogatories propounded by Defendants, including discovery concerning the vehicle(s) used by Plaintiffs to deliver product to Defendants' customers. Plaintiffs have also made themselves available and provided full day depositions. Plaintiffs further object to this Notice to the extent that Defendants have had ample opportunity to obtain the information sought in another manner. Specifically, Plaintiffs object because Defendants had the opportunity to inquire as to the specifications and weight of the vehicle during Plaintiff Lew Baxter's deposition and chose not to do so. Indeed, Defendants questioned Plaintiff Baxter during his deposition on April 16, 2008 for approximately 7 hours and 52 minutes, yet failed to inquire as to the dimensions or weight of Mr. Baxter's delivery vehicles at such as time as he had agreed to appear to be available for questions. Plaintiffs object to further discovery on this issue as such information could have been obtained in a less burdensome manner.

2. Plaintiffs further object to this Notice of Production and Inspection of Property to the extent this request is duplicative of information already in Defendants' possession. Defendants have represented to Plaintiffs' counsel, both orally and in letters dated May 16, 2008, and May 30, 2008, that the information on gross vehicle weight and gross vehicle weight rating is available through less burdensome means than the inspection of the property by the Plaintiffs. Indeed, Defendants informed Plaintiffs of their plan to produce this information to Plaintiff by the end of next week at the meet and confer on June 4, 2008.

3. In an attempt to resolve these objections, Plaintiffs respectfully request a meet and confer with the Defendants.

Submitted, this the 6th day of June, 2008.

/s/ Amy A. Weaver

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CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2008, a copy of the foregoing was served on the following counsel via the CM/ECF system:

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_____/s/ Amy A. Weaver____